



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/617,165

07/08/2003

Prashant G. Joshi

1302-49

2726

28249 7590 07/26/2007

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE, NY 11553

EXAMINER

CAIN, EDWARD J

ART UNIT

PAPER NUMBER

1714

MAIL DATE

DELIVERY MODE

07/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/617,165

Applicant(s)

JOSHI ET AL.

Examiner

Edward J. Cain

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-9,14-17,22-25,30-38 and 42-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 47 and 48 is/are allowed.
- 6) ☒ Claim(s) 1,4,7-9,15-17,23-25,31-33,35,37,42,44-46 and 49 is/are rejected.
- 7) ☒ Claim(s) 6,14,22,30,34,37 and 43 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

The amendment received 27 April 2007 has been made of record. Claims 1, 4, 6-9, 14-17, 22-25, 30-38 and 42-49 are pending.

The rejections based on USC 112 contained in the previous office action are withdrawn in view of applicants' arguments and amendments.

Claims 1, 4, 7-9, 15-17, 23-24, 33, 36, 42 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Cruise.

Claims 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cruise in view of Sandstrom.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cruise in view of Kikuchi.

Claims 25, 31-32, 44-45 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruise in view of Fitzgerald.

Each of these rejections is maintained substantially as set forth in the previous office action.

Applicants' arguments focus on the "increasing the hardness" language of the rejected claims and allege that Cruise does not disclose or discuss the problem. It is the position of the examiner that Cruise need not recognize the problem as described by applicants as long as Cruise meets the method step and product limitations. It is the position of the examiner that Cruise meets those limitations as demonstrated by the compositions and associated hardness values of Table 5. It is further the position of the examiner that, if Cruise produces compositions meeting the chemical and physical

Art Unit: 1714

(hardness) limitations of the rejected claims, then Cruise must also meet the hardness increasing aspect of the rejected claims.

Claims 6, 14, 22, 30, 34, 37 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 47 and 48 are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Cain whose telephone number is (571) 272-1118. The examiner can normally be reached on M-F from 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571 272-1119. The fax phone

Art Unit: 1714

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Edward J. Cain
Primary Examiner
Art Unit 1714

A handwritten signature in black ink, appearing to read "Edward J. Cain", is written below the printed name and title.